

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of: ADRIAN BUCKLEY, ET. AL.
For : APPARATUS, AND ASSOCIATED METHOD FOR FACILITATING NETWORK
SELECTION BY A MOBILE NODE PURSUANT TO A PACKET DATA
COMMUNICATION SERVICE
U.S. Serial No.: 10/789,946
Filed: 27 FEBRUARY 2004
Group Art Unit: 2151
Examiner: UNKNOWN
Docket No.: 1578.122

Mail Stop Petition
Commissioner of Patents
P.O. Box 1450
Alexandria, VA 22313-1450

VERIFIED STATEMENT OF FACTS OF ROBERT H. KELLY

Dear Sir:

I, Robert H. Kelly, affiant herein, state and declare as follows:

1. I am a patent attorney, registered to practice before the USPTO, registration number 33,922.
2. I have represented Research In Motion, Ltd., a Canadian company having a primary having a primary place of business of 295 Phillip Street, Waterloo, Canada NTL 3W8, before the USPTO in various matters, dating back to 2002.
3. I prepared the patent application of the above-captioned serial number on behalf of Research In Motion.

4. The inventors of the claimed invention of the patent application are Adrian Buckley, a British citizen, who resides at 413 Montclair, Tracy, California, 95276, U.S.A, Atul Asthana, a Canadian citizen, who resides at 4 Renate Place, Unionville, Ontario, L3R 2Y1, Canada, George Baldwin Bumiller, an American citizen, who resides at 39 Lakeview Terrace, Ramsey, New Jersey, 07446-2026, U.S.A., and Bokinakere Subbarao Sundresh, a British citizen, who resides at 18 Skylark Close, Basingstoke, Hampshire, RG22 5UR, United Kingdom.

5. I filed the patent application on 27 February 2004 with the USPTO.

6. Concurrent with the filing of the patent application, and prior to issuance of a foreign filing license, I instructed a European associate to file a European patent application with the European patent office on the same date, that is, 27 February 2004.

7. Responsive to my instructions, a European patent application, substantially identical to the corresponding patent application filed in the USPTO was filed on 27 February 2004 and constitutes the unlicensed patent application. An associated Canadian patent application, claiming priority of the European patent application, was filed just prior to the twelve month anniversary of 27 February 2004 filing date.

8. The subject matter of the patent application was not under a secrecy order at the time it was filed abroad and that it is not currently under a secrecy order.

9. In many other patent matters that I handled on behalf of Research In Motion, Ltd., the inventors resided in Canada, or elsewhere outside of the United States. With those other patent matters, I regularly caused patent applications to be filed both before the USPTO and the EPO on the concurrent dates pursuant to standard operating instructions of Research In Motion.

10. When I provided instructions to the European associate to file the subject patent application with the EPO on 27 February 2004, I did not consider the need to first obtain a foreign filing license. I believe that I caused the patent application to be filed abroad through

error and without deceptive intent without first obtaining the required license as I failed even to consider any issue regarding the foreign filing license.

11. Research In Motion, Ltd. Has standard operating instructions relating to foreign filing licenses, that states in pertinent part, “prior to filing or initiating the filing of a patent application in a non-US patent office, a non-US patent agency, or an international agency other than the U.S. Receiving Office, you must determine whether or not a foreign filing license will be required from the U.S. Patent and Trademark Office.” This standard operating instruction was in place as of the date of filing of the European patent application.

12. I did not review the standard operating instructions at the time of filing of the European patent application. I believe that I caused the patent application to be filed abroad through error and without deceptive intent without first obtaining the required license further as I failed to review the standard operating instructions that would have refreshed my recollection and alerted me to the need first to obtain the foreign filing license.

13. A foreign filing license in the above-captioned patent application was granted by the USPTO on 24 May 2004 together with issuance of the filing receipt.

14. On 14 November 2006, I was alerted to the problem relating to the filing abroad of the patent application without first obtaining the foreign filing license.

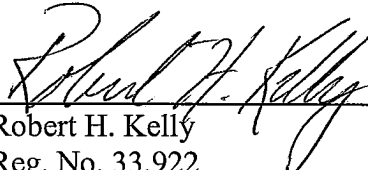
15. I am aware that willful false statements and the like are punishable by fine or imprisonment, or both (18 U.S.C.1001) and may jeopardize the validity of the application and

Application No. 10/789,946

any patent issuing thereon. I further declare that all statements made of my own knowledge are true and that all statements made on information and belief are believed to be true.

Respectfully submitted,

Dated: 19 Dec 06


Robert H. Kelly
Reg. No. 33,922

SCHEEF & STONE, L.L.P.
5956 Sherry Lane, Suite 1400
Dallas, Texas 75225
Telephone: (214) 706-4201
Fax: (214) 706-4242
robert.kelly@scheefandstone.com